

Exhibit E

ORIGINAL

1

COUNTY COURT OF THE STATE OF NEW YORK

COUNTY OF ONONDAGA : CRIMINAL TERM : PART NO. 1

THE PEOPLE OF THE STATE OF NEW YORK,

vs.

Indictment No.
2016-0961-1

TONY W. JENNINGS,

Index No. 16-0049

Defendant.

NYSID No. 08709143L

SENTENCE

Criminal Courts Building
505 S. State Street
Syracuse, New York 13202
March 8, 2017

B e f o r e :

HONORABLE STEPHEN J. DOUGHERTY,
Judge

A p p e a r a n c e s :

WILLIAM J. FITZPATRICK, ESQ.
District Attorney, Onondaga County
BY: MICHAEL MANFREDI, ESQ.
Assistant District Attorney

JOSEPH LOFARO, ESQ.
Attorney for Defendant

Tony Jennings, Defendant

FILED

AUG 18 2017

ONONDAGA CO CLERKS OFFICE

SHELLEY J. STRADER, RPR
Senior Court Reporter

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THE COURT: Morning, Mr. Lofaro, how are you?

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MR. LOFARO: Good. Morning, Judge.

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THE COURT: Mr. Manfredi, is Joe Centra coming down on this?

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MR. MANFREDI: Joe Centra is out on training so...

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THE COURT: Perfect. Mr. Manfredi is here, Mr. Lofaro is here, Mr. Jennings is here. Mr. Lofaro, I don't know if you know that your client made a post-trial motion to set aside the verdict. I have the decision with regards to that. I have a copy for the defendant and the district attorney. Mr. Jennings went to trial, a jury trial, before this court and on February 6 we began the trial, and a verdict was returned. Mr. Jennings was convicted of criminal possession of a controlled substance in the third degree, first count. Second count, criminal possession of a controlled substance in the fifth degree. I ordered a presentence report. I have received it and had a chance to review it. I'm ready to go forward with sentencing with regards to Mr. Jennings' motion before the court. He made a motion for an order

1 pursuant to Criminal Procedure Law 330.30
2 setting aside the jury's verdict that was
3 rendered on February 8 and for the reasons set
4 forth in my decision, I have denied that motion.
5 Mr. Manfredi, on behalf of the People, do you
6 move sentence?

7 MR. MANFREDI: So moved, Your Honor.

8 THE COURT: What would you like to tell
9 us, sir?

10 MR. MANFREDI: Well, Judge, as you're
11 aware, this is a case that went to trial. The
12 defendant was convicted on both counts that were
13 left in the indictment. It's the People's
14 position he should receive the maximum sentence
15 allowed by law.

16 THE COURT: All right. Mr. Lofaro, do you
17 want to be heard, sir?

18 MR. LOFARO: Certainly, Judge. I'd ask
19 the court not hold the fact that Mr. Jennings
20 exercised his right to trial against him. He
21 got up and had his trial. He stands convicted,
22 however, I think some pertinent facts came out
23 during his direct examination and his
24 cross-examination. He explained to the court
25 that he was gainfully employed. The court also

1 heard from his employer who confirmed that he
2 was gainfully employed and working regularly.
3 He was at the time a productive member of
4 society to an extent, despite this charge and
5 this conviction. Also, I'd like to note that
6 albeit the fact that he does stand convicted, it
7 was a relatively small amount of drugs and a
8 very small amount of money that was recovered.
9 In addition to that, I would note that he was in
10 school at the time. He had just gotten
11 acceptance into a new program. So, again, he
12 was making strides to try and improve his life
13 and become a more valuable citizen. I think
14 that the lesser sentence he receives the sooner
15 he can get out and start working again and
16 pursuing his education to become a productive
17 member of society. I had a heartfelt
18 conversation with his father who is in failing
19 health in Louisiana yesterday. He said he's
20 willing to do anything he can to try and help
21 out his son and he looks forward to the day when
22 he is released and he would like to still be
23 around to see that, Judge. So I'd ask that the
24 court impose the minimum sentence allowable by
25 law, Judge.

1 THE COURT: Mr. Lofaro, thank you very
2 much. Mr. Jennings, anything you'd like to say
3 before I impose sentence, sir?

4 THE DEFENDANT: No, Your Honor.

5 THE COURT: Well, we did have a jury
6 trial. I am not going to penalize Mr. Jennings
7 in any way for taking his case to trial because
8 that is his constitutional right. I wasn't
9 aware of all the facts of the case until we
10 heard the testimony from the witnesses. I have
11 a young man, not so much a young man anymore,
12 Mr. Jennings, standing before me that has two
13 prior felony convictions, including possession
14 of a weapon in the second degree. Mr. Jennings
15 was on parole at the time of this incident. He
16 fought with the police, which was the credible
17 testimony at the trial, and Mr. Jennings also
18 took the stand and was not truthful to the jury
19 when he said to the jury that he thought the
20 substance that he had was Molly, quote unquote,
21 when in the grand jury under oath twice he told
22 the grand jury that it was indeed cocaine. For
23 those reasons and the fact that he's been
24 convicted after a jury trial of criminal
25 possession of a controlled substance in the

1 third degree, the sentence on that count is ten
2 years in the New York State Department of
3 Corrections with three years post-release
4 supervision. With regards to count two, the
5 sentence of the court is four and a half years
6 plus two years post-release supervision. Those
7 sentences are to run concurrent, that is at the
8 same time with each other. There is a DNA fee,
9 a surcharge, and a crime victim's fee and
10 obviously Mr. Lofaro, you'll advise him of his
11 right to appeal.

12 MR. LOFARO: I have, Your Honor.

13 THE COURT: Thank you, gentlemen.

14 MR. LOFARO: Thank you, Your Honor.

15 THE DEFENDANT: Your Honor, is there a
16 paper that I get to sign as far as being able to
17 appeal?

18 THE COURT: You will get that. It will be
19 served within thirty days. Mr. Lofaro will help
20 you with that.

21 THE DEFENDANT: Within thirty days? I
22 thought I was supposed to have the paper here.

23 THE COURT: Thirty days. Mr. Lofaro will
24 help you.

25 MR. LOFARO: Thank you, Your Honor.

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C E R T I F I C A T E

This is to certify that I am a Senior Court
Reporter of the Fifth Judicial District; that I
attended and reported the above-entitled
proceedings; that I have compared the foregoing
with my original minutes taken therein, and that
it is a true and correct transcript thereof.

Shelley J. Strader
SHELLEY J. STRADER, RPR
Senior Court Reporter

Dated: August 16, 2017